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07 UNITED STATES DISTRICT COURT  
08 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

09 ADAM GAGNIER, ) CASE NO. C09-0683-RSM-MAT  
10 )  
11 Petitioner, )  
12 )  
13 v. ) ORDER RE: PENDING MOTIONS  
14 )  
15 U.S. BUREAU OF PRISONS, et al., )  
16 )  
17 Respondents. )  
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22 )

15 Petitioner proceeds *pro se* in this habeas corpus action under 28 U.S.C. § 2241. There  
16 are a number of pending motions in this matter. Having considered those motions, the Court  
17 finds and ORDERS as follows:

18 (1) Petitioner filed a motion for appointment of counsel. (Dkt. 12.) There is no  
19 right to have counsel appointed in habeas cases unless an evidentiary hearing is required. *See*  
20 *McCleskey v. Zant*, 499 U.S. 467, 495 (1991); Rule 8(c) of the Rules Governing Section 2254  
21 Proceedings for the United States District Courts. Although the Court may exercise its  
22 discretion to appoint counsel for a financially eligible individual where the “interests of justice

01 so require” under 18 U.S.C. § 3006A, petitioner fails to demonstrate that the interests of justice  
02 would be best served by appointment of counsel in this matter. If the Court later orders an  
03 evidentiary hearing, counsel will be appointed assuming petitioner’s continued indigent status.

04 (2) Petitioner filed a motion in opposition to any delays by respondents. (Dkt. 13.)  
05 Respondents subsequently filed a motion for an extension of time to file their answer, seeking a  
06 thirty-two day extension. (Dkt. 16.) Counsel for respondents explained that the case had  
07 been reassigned to her shortly before the response due date, that she would be out of the office  
08 on a previously scheduled vacation, and that she was responsible for multiple appellate briefs in  
09 other cases. (*Id.*) Petitioner opposed this request (Dkt. 17) and filed a motion for summary  
10 judgment based on respondents failure to submit a response by the original due date (Dkt. 18).  
11 Ten days after the date of the requested extension, respondents submitted a motion to permit a  
12 late-filed response, noting the Court had not yet ruled on their request for an extension and  
13 explaining that they miscalculated the date for their answer based on that extension. (Dkt. 20.)  
14 The Court finds both the original requested extension and the explanation for the late-filed  
15 response reasonable. It finds no basis for petitioner’s objections or his request for summary  
16 judgment. Accordingly, petitioner’s motion in opposition to any delays (Dkt. 13) and his  
17 motion for summary judgment (Dkt. 18) are DENIED, while respondents’ motion for an  
18 extension of time (Dkt. 16) and motion for leave to file a late response (Dkt. 20) are  
19 GRANTED.

20 (3) The Clerk is directed to send copies of this Order to the parties and to the  
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01 Honorable Ricardo S. Martinez.

02 DATED this 23rd day of October, 2009.

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05 Mary Alice Theiler  
06 United States Magistrate Judge  
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